

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

GREGORY C. MILTON,)	
Plaintiff,)	
)	
v.)	C.A. No. 04-10482-MEL
)	
WINDELL JONSIEY, et al.)	
Defendants.)	

MEMORANDUM AND ORDER

Now before the Court are plaintiff's (1) motion for leave to proceed in forma pauperis; (2) motion for appointment of counsel; and (3) motion to amend complaint. For the reasons set forth below, plaintiff's motions are denied and the clerk is directed to issue summons for service of the complaint.

BACKGROUND

On March 9, 2004, Gregory C. Milton, a patient at the Lemuel Shattuck Hospital Metro-Boston Inpatient Services Unit, filed his self-prepared complaint against the Boston Police Department and several Boston police officers for the alleged violation of plaintiff's constitutional rights. See Complaint ("Compl."), Docket No. 2.

By Order dated May 24, 2004, the Court allowed plaintiff's Application to Proceed Without Prepayment of Fees and directed the clerk to return the complaint for screening on the merits pursuant to 28 U.S.C. § 1915(e)(2). See Docket No. 8. Now before the Court are plaintiff's (1) motion for leave to proceed in forma pauperis; (2) motion for appointment

of counsel; and (3) motion to amend complaint.

DISCUSSION

As an initial matter, the Court notes that on May 24, 2004, plaintiff was granted leave to proceed in forma pauperis. Therefore, the pending motion for leave to proceed in forma pauperis will be denied as moot.

To the extent plaintiff seeks appointment of counsel, under Section 1915(e)(1) of title 28, the Court "may request an attorney to represent any person unable to afford counsel." 28 U.S.C. § 1915(e)(1). However, a civil plaintiff lacks a constitutional right to free counsel. DesRosiers v. Moran, 949 F.2d 15, 23 (1st Cir. 1991) (citations omitted). This case does not present exceptional circumstances warranting the appointment of counsel at this time and plaintiff's request for appointment of counsel will be denied without prejudice.

To the extent plaintiff seeks to amend his complaint, the Federal Rules of Civil Procedure provide that a "party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served...." Fed. R. Civ. P. 15(a). Here, plaintiff moves to amend, but has not filed an amended complaint nor explained what he seeks to amend. Accordingly, plaintiff's motion will be denied without

prejudice.

Finally, having completed the screening on the merits of plaintiff's complaint pursuant to Section 1915(e)(2), the Court will allow this action to proceed at this time.

ORDER

Accordingly, it is hereby

ORDERED, plaintiff's Motion for Leave to Proceed In Forma Pauperis (Docket No. 1) is denied as moot; and it is further

ORDERED, plaintiff's Motion for Appointment of Counsel (Docket No. 7) is denied without prejudice; and it is further

ORDERED, plaintiff's Motions to Amend (Docket No. 14) is Denied; and it is further

ORDERED, the Clerk shall issue summonses and the United States Marshal shall serve a copy of the complaint, summons and this order upon defendant(s) as directed by the plaintiff with all costs of service to be advanced by the United States.

SO ORDERED.

Dated at Boston, Massachusetts, this 24th day of August, 2004.

/s/ Morris E. Lasker
MORRIS E. LASKER
UNITED STATES DISTRICT JUDGE